

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Arkansas Cable Telecommunications) EB Docket No. 06-53
Association; Comcast of Arkansas, Inc.;)
Buford Communications I, L.P. d/b/a)
Alliance Communications Network;)
WEHCO Video, Inc.; and TCA Cable) EB-05-MD-004
Partners d/b/a Cox Communications,)
)
Complainants,)
)
v.)
)
Entergy Arkansas, Inc.,)
)
Respondent.)

To: The Honorable Arthur I. Steinberg
Office of the Administrative Law Judge

FILED/ACCEPTED
AUG 16 2007
Federal Communications Commission
Office of the Secretary

RECEIVED - FCC
AUG 14 2007
Federal Communications Commission
Bureau / Office

STIPULATED CONFIDENTIALITY AGREEMENT AND
MOTION FOR PROTECTIVE ORDER

Pursuant to Section 1.313 of the Rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.313, Southwestern Bell Telephone, L.P. d/b/a AT&T Arkansas ("AT&T Arkansas"), a non-party in the above-captioned proceeding, Entergy Arkansas, Inc. ("EAI" or "Respondent"), and Arkansas Cable Telecommunications Association, Comcast of Arkansas, Inc., Buford Communications I, L.P. d/b/a Alliance Communications Network, WEHCO Video, Inc., Coxcom, Inc., and Cebridge Acquisition, L.P. d/b/a Suddenlink Communications (collectively "Complainants"), by undersigned counsel, hereby move the Court to adopt the following stipulated confidentiality agreement relating to the materials produced

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pursuant to subpoena in the above-captioned proceeding, and accordingly enter a protective order as follows:

WHEREAS, Complainants have issued a subpoena for documents to AT&T Arkansas in the above-captioned proceeding (the "Proceeding"); and

WHEREAS, AT&T Arkansas is or may in the future be producing "Confidential Documents," as defined herein in paragraph 1 ("Confidential Documents"), or written discovery responses or deposition testimony containing "Confidential Information," as defined herein in paragraph 2 ("Confidential Information"), as a result of this Proceeding; and

WHEREAS, AT&T Arkansas desires to maintain the confidentiality of the Confidential Documents and Confidential Information that may be produced in this Proceeding; and

WHEREAS, there may be a significant cost in determining in advance of production which documents are Confidential Documents; and

WHEREAS, AT&T Arkansas desires to adopt an efficient and practical procedure for handling confidentiality issues without incurring significant but potentially unnecessary expenses to conduct confidentiality reviews; and

WHEREAS, for the foregoing reasons AT&T Arkansas, Respondent and Complainants desire to enter into this stipulated Confidentiality Agreement and Protective Order ("Confidentiality Order") to govern the discovery of the above-captioned proceeding;

NOW THEREFORE, AT&T Arkansas, Respondent and Complainants stipulate and agree as follows:

1. For purposes of this Confidentiality Order, "Confidential Documents" shall include any documents that AT&T Arkansas or its counsel designate as confidential based upon a good faith belief that the designation is appropriate because the document contains proprietary

or confidential business or financial information, trade secrets, or non-public information of a commercially sensitive, personal, or private nature. Confidential Documents may include information of whatever kind, including but not limited to written information or information otherwise recorded on any medium including, without limitation, paper, photographs, recordings, and electronic, optical, or magnetic disks or files, including any copies of these materials or information derived therefrom.

2. For purposes of this Confidentiality Order, "Confidential Information" shall include any information provided in response to a subpoena for documents or a written discovery request or in response to a deposition question that AT&T Arkansas or its counsel designate as confidential based upon a good faith belief that the designation is appropriate because of the proprietary or confidential business or financial nature of the information, trade secrets contained in the information, or the non-public, sensitive, personal, or private nature of the information.

3. All documents AT&T Arkansas produces or has produced in its responses to the subpoena served on AT&T Arkansas and dated March 21, 2007 shall be treated as Confidential Documents, as defined herein, from and after the moment of disclosure or production, without any requirement that the Confidential Documents be so marked or otherwise designated Confidential Documents.

4. At the time AT&T Arkansas produces documents to Complainants, AT&T Arkansas may designate any such documents as Confidential Documents by stamping on each page of such documents the word "Confidential."

5. At the time AT&T Arkansas responds to a written discovery request, including a subpoena for documents, other than the subpoena as described in paragraph 3, AT&T Arkansas may designate such information as Confidential Information, as defined herein in paragraph 2,

by stating in writing in response to the written discovery request that the information is Confidential Information subject to the protections set forth in this Confidentiality Order and by indicating on the first page of the written discovery responses that the document has been designated under seal by AT&T Arkansas.

6. During any deposition of an AT&T Arkansas employee or representative, the deponent or counsel for a deponent may designate that the testimony being provided in response to a deposition question contains Confidential Information, as defined herein in paragraph 2, by stating on the record that the information is Confidential Information subject to the protections set forth in this Confidentiality Order. In addition, the deponent or counsel for the deponent may designate additional Confidential Information, as defined herein in paragraph 2, by indicating to Respondent and Complainants, in writing, fifteen (15) days following receipt of a deposition transcript the specific line numbers and page numbers of the transcript that contain Confidential Information subject to the protections set forth in this Confidentiality Order.

7. If Respondent or Complainants receive Confidential Documents or Confidential Information and believe that such documents or information are not entitled to the protections set forth in this Confidentiality Order, such party shall within fifteen (15) business days of receiving such documents or information indicate to AT&T Arkansas, in writing, the specific documents or information that it believes falls outside of the protections set forth in this Confidentiality Order (“Identified Documents or Information”) and state in writing the rationale for the removal of such Identified Documents or Information from the protections set forth in this Confidentiality Order.

8. If AT&T Arkansas objects, in writing, to Respondent’s or Complainants’ written notice that the Identified Documents or Information fall outside of the protections set forth in this

Confidentiality Order, such objection shall be made within ten (10) business days of receiving such written notice, or the claim of confidentiality shall be waived. If Respondent or Complainants desire to challenge AT&T Arkansas' claim of confidentiality, such party within ten (10) business days of receiving the objection shall file a Motion to the Administrative Law Judge seeking a ruling on the issue. AT&T Arkansas, Respondent and Complainants recognize that this Confidentiality Order is not intended to constitute a ruling or pre-judgment concerning whether the Identified Documents or Information could or could not be released pursuant to a valid request made under to the Freedom of Information Act, 5 U.S.C. § 552, any other governmental exemption from disclosure, and/or FCC Rule 0.459, 0.461, 47 C.F.R. §§ 0.459, 0.461.

9. Neither the service of the written notice described in paragraph 7 by Respondent or Complainants nor the service of the written notice or filing of a Motion described in paragraph 8 by AT&T Arkansas shall remove the Identified Documents or Information from the protections set forth in this Confidentiality Order. Until AT&T Arkansas and Respondent or Complainants resolve the dispute among themselves, AT&T Arkansas waives the claim of confidentiality, or the Administrative Law Judge resolves the dispute regarding whether the Identified Documents or Information are Confidential Documents or Confidential Information entitled to the protections set forth in this Confidentiality Order, the Identified Documents or Information shall retain the protections set forth in this Confidentiality Order.

10. AT&T Arkansas, Respondent and Complainants agree that Confidential Documents and Confidential Information may be used during the course of this proceeding for the purpose of establishing a claim or a defense, but shall not be disclosed, directly or indirectly, to anyone other than the Respondent, the Complainants, attorneys for AT&T Arkansas,

witnesses, consultants, and expert witnesses specially retained or specially employed for purposes of the Proceeding. To the extent any Confidential Documents or Confidential Information are provided to any party's witnesses or expert witnesses, each witness or expert witness shall: (a) agree in writing, in the form attached to this Confidentiality Order as Exhibit A, within twenty (20) days of the entry of this Confidentiality Order or prior to receiving any Confidential Documents or Confidential Information, that he shall be bound by the terms of this Confidentiality Order and (b) shall return all Confidential Documents and Confidential Information to AT&T Arkansas upon conclusion of the Proceeding. Nothing in this Confidentiality Order prevents any party to the Proceeding from disclosing Confidential Documents and Confidential Information to the Administrative Law Judge, subject to such protections as the Administrative Law Judge may order with respect to the treatment of Confidential Documents and Confidential Information at trial.

11. If Confidential Documents or Information in the possession of Respondent or Complainants are subpoenaed or requested by any court, administrative or legislative body, or any other person purporting to have authority to subpoena or request such information, Respondent or Complainants shall give written notice of the subpoena or request (including delivery of a copy thereof) to the attorneys for AT&T Arkansas not less than five (5) business days prior to the time when production of the information is requested by the subpoena or request. In the event that the subpoena or request purports to require production of such Confidential Documents or Information on less than five (5) days' notice, the party to whom the subpoena or request is directed shall give immediate telephonic notice of the receipt of such subpoena or request, and forthwith deliver by hand or facsimile a copy thereof, to the attorneys for AT&T Arkansas. Absent application by AT&T Arkansas for a protective order or a motion

to quash, Respondent or Complainants may comply with the subpoena or request. If AT&T Arkansas makes an application for a protective order or moves to quash before the return date, Respondent or Complainants shall not produce such Confidential Documents or Information unless it receives a court order authorizing such disclosure or the consent of AT&T Arkansas. The obligations upon Respondent and Complainants under this paragraph shall terminate upon execution and delivery of Respondent's and Complainants' certificate set out in paragraph 16 this Confidentiality Order.

12. The inadvertent, unintentional, or in camera disclosure of a Confidential Document or Confidential Information shall not, under any circumstance, be deemed a waiver, in whole or in part, of AT&T Arkansas' claims of confidentiality. If a Confidential Document or Confidential Information is inadvertently produced without the appropriate designation of confidentiality, Respondent and Complainants shall, upon notice of the confidential status of the document or information, treat the document or information as if it had been appropriately designated confidential at the moment it was produced.

13. Respondent, Complainants and all persons subject to the provisions of this Confidentiality Order agree to use Confidential Documents and Confidential Information solely and exclusively for purposes of preparing for, conducting, and participating in the Proceeding and not for any other litigation and not for any other business purpose, personal purpose, or other purpose whatsoever, unless otherwise agreed to in writing by AT&T Arkansas, Respondent and Complainants.

14. AT&T Arkansas' agreement to produce Confidential Documents and Confidential Information pursuant to this Confidentiality Order shall not be deemed an agreement that such documents (1) constitute or contain trade secrets or other confidential research, development,

financial, commercial, or personal information or (2) are relevant to any matter at issue in the Proceeding. AT&T Arkansas reserves the right to object to or to seek an appropriate order limiting any use which Respondent or Complainants may seek to make of such Confidential Documents or Confidential Information either in discovery or at the formal hearing of the Proceeding.

15. AT&T Arkansas, Respondent and Complainants agree that no copies of Confidential Documents or Confidential Information produced by AT&T Arkansas will be made except as necessary for the purposes of this Proceeding. If it becomes necessary to include information obtained from Confidential Documents or Confidential Information or to use, such Confidential Documents or Confidential Information in any filing with the Federal Communications Commission, then any such filing shall be made under seal pursuant to FCC Rule 0.459, 47 C.F.R. § 0.459, if not prohibited by law.

16. Upon the conclusion of the Proceeding, Respondent and Complainants, as defined in this Confidentiality Order, shall destroy or delete, uninstall, or otherwise remove from each computer, diskette, compact disk, computer file, and any other storage media, all Confidential Documents and Confidential Information, and all copies, extracts, summaries, facsimiles thereof, and all electronically, optically, or magnetically stored information of any kind including, - without limitation, diskettes, compact disks, computer files; and similar storage media ("Electronically Stored Documents"). Additionally, a sworn certificate attesting to the destruction and electronic file deletion and indicating that no electronic information has been retained shall be executed by Respondent and Complainants and by their respective counsel and delivered to AT&T Arkansas within one hundred twenty (120) days after the conclusion of the case, including any appeal. Notwithstanding the above, briefs, pleadings, written discovery

responses, transcriptions of testimony, other court papers prepared for use in the Proceeding and attorney work product or attorney-client privileged materials containing or referring to Confidential Information, or information derived therefrom, need not be destroyed, but shall be kept confidential by counsel for Respondent and Complainants and remain subject to the provisions hereof.

17. AT&T Arkansas, Respondents and Complainants agree that nothing herein is intended to alter or diminish the protections of the attorney-client privilege or the work-product doctrine.

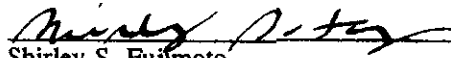
18. Because a violation of this Confidentiality Order by Respondent or Complainants could cause irreparable injury to AT&T Arkansas, and there is no adequate remedy at law for such violation, AT&T Arkansas shall have the right, in addition to any other remedies available to them at law or in equity, to seek to enjoin Respondent or Complainants from any violation of this Confidentiality Order.

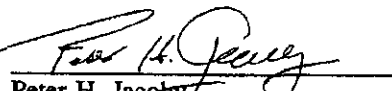
19. This Confidentiality Order shall inure to the benefit of, and be binding upon, AT&T Arkansas, Respondent and Complainants and their respective successors, heirs, agents, personal representatives, and assigns.

20. Any time limit contemplated by this Confidentiality Order may be extended by an agreement in writing, signed by counsel of record for AT&T Arkansas, Respondent and Complainants.

21. This Confidentiality Order is the entire agreement between AT&T Arkansas, Respondent and Complainants. It may not be amended in any manner whatsoever except by an agreement in writing, signed by counsel of record for AT&T Arkansas, Respondent and Complainants and adopted by Order of the Administrative Law Judge.

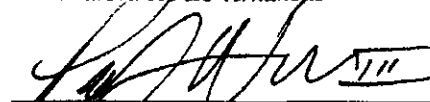
Dated this 14th day of August, 2007.


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CERTIFICATE OF SERVICE

I, Dominic F. Perella, do hereby certify that on this 14th day of August , 2007, a single copy (unless otherwise noted) of the foregoing Stipulated Confidentiality Agreement and Motion for Protective Order was delivered to the following by the method indicated:

Marlene H. Dortch (hand delivery) (**ORIGINAL PLUS 6 COPIES**)
Secretary
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445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Hon. Arthur I. Steinberg**
Administrative Law Judge
Office of the Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
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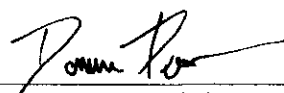
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A handwritten signature in black ink, appearing to read "Dominic F. Perella", written over a horizontal line.

Dominic F. Perella

**Also served by email

EXHIBIT A

In the Matter of)	
)	
Arkansas Cable Telecommunications)	EB Docket No. 06-53
Association; Comcast of Arkansas, Inc.;)	
Buford Communications I, L.P. d/b/a)	
Alliance Communications Network;)	
WEHCO Video, Inc.; and TCA Cable)	EB-05-MD-004
Partners d/b/a Cox Communications,)	
)	
<i>Complainants,</i>)	
)	
v.)	
)	
Entergy Arkansas, Inc.,)	
)	
<i>Respondent.</i>)	

DECLARATION

I have been asked to serve as a _____ in this Proceeding on behalf of _____ one of the parties in the Proceeding. I acknowledge and declare under penalty of perjury that I have received and read the Confidentiality Agreement and Protective Order ("Confidentiality Order") attached hereto. I agree to be bound by the terms of the Confidentiality Order.

I hereby submit to the jurisdiction of the Federal Communications Commission solely for the purpose of enforcement of the Confidentiality Order in this Proceeding.

Dated this _____ day of _____, 2007.

By: _____
 [Name]
 [Title]
 [Employer]
 [Address]
 [Phone]